

NOTE - This Writ may not be served later than 4 calendar months (*or, if leave is required to effect service out of the jurisdiction, 6 months*) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. At all material times and at the time of the accident, the Plaintiff was a pedestrian and a resident of Grand Cayman and the Defendant was the driver of a truck, registration number 26497.

2. On the 11th of June, 1996 at approximately 8:30p.m., the Plaintiff was in the vicinity of a Texaco Gas station located at or near the junction of North Sound Way and Eastern Avenue. In particular she was on the roadside, of a portion of North Sound Way near to the aforementioned junction. Whilst mounting the sidewalk along the roadside the Plaintiff was suddenly and without warning struck by the vehicle being driven by the Defendant.

3. The said accident was caused by the negligence of the Defendant.

PARTICULARS OF NEGLIGENCE

The Defendant was negligent in that he:-

- (a) Failed to keep any or any proper look out;

- (b) Failed to take adequate care for the safety of the Plaintiff;

- (c) Failed to see the Plaintiff's person in time or at all;

- (d) Failed to adequately or all heed or act upon the presence, path, position, location, or movements of pedestrians and in particular the Plaintiff;

- (f) Failed to accord precedence to the Plaintiff as she mounted the sidewalk or otherwise as she moved along North Sound Way.
- (g) Drove, caused, permitted or suffered his vehicle to come so close to the edge of material portion of the sidewalk/ North Sound Way so as to collide with the Plaintiff;
- (h) Failed to stop, wait, to slow down, to swerve, or to otherwise so as to manage or to control his said vehicle so as to avoid hitting the Plaintiff;
- (i) Failed by means of his horn, lights otherwise howsoever, to warn the Plaintiff of his approach and/or his intentions;
- (j) Failed to have or retain any or any sufficient or safe control over his vehicle;
- (k) Drove too fast in the circumstances

5. The Plaintiff will rely upon the doctrine res ipsa loquitur;

6. By reasons of the matters aforesaid the Plaintiff who is now aged 48 (forty-eight) years, having been born on 22nd October, 1950 suffered pain, injury, loss and damage.

PARTICULARS OF INJURY

- (i) Nervous shock;
- (ii) Torn posterior and interior spinal ligaments;
- (iii) Nerve entrapment;
- (iv) Paraesthesiae in left leg;
- (iv) Sprained ankle;
- (v) Pain and Suffering and consequential immobility;

7. The Defendant's vehicle struck the Plaintiff in her left hip. The impact caused her to fall and sprain her right ankle. At the time of the impact she felt no serious pain, however, that night the Plaintiff suffered intense pain in her back, left leg and hip and pain in her right ankle.
8. A few days after the injury the Plaintiff attended the George Town Hospital where she was assessed and treated. Medication was prescribed along with physiotherapy and further specialist assessment.
9. Since the accident the Plaintiff has obtained medical treatment and has attended physiotherapy sessions from time to time. The Plaintiff primarily suffers from torn posterior spinal and inter-spinal ligaments, nerve entrapment and paraesthesiae in the left leg.
10. The Plaintiff continues to suffer from inter alia, back pain, leg cramping and swelling of the hip. Since the accident the Plaintiff's personal life has suffered. Also, the Plaintiff and her family experience consequential anxiety and distress regarding her present condition and her future prognosis. The Plaintiff has been severely restricted in her ability to interact with her new grandchildren, an activity she had eagerly anticipated. Since the accident the Plaintiff continues to suffer from a phobia of walking alone on roadsides and sidewalks. The Plaintiff continues to suffer from the side-effects of the medication prescribed. The Plaintiff is an unskilled worker. At the time of the accident the Plaintiff was employed as a full-time house-keeper/nanny and her work required bending and lifting. The Plaintiff is no longer able to perform such activities and as a result she found difficulty obtaining suitable alternative employment. She has been restricted to work involving light duties. The Plaintiff is left with residual continuous severe pain in her back, hip and leg. Occasional short courses of physiotherapy have been prescribed along with continuing medication.
11. Further the Plaintiff claims interest pursuant to Section 34 of the Judicature Law on any amount found to be due to the Plaintiff at such rate and for such period as the Court thinks fit.

AND THE PLAINTIFF CLAIMS:-

- (1) Damages;
- (2) Such interest pursuant to Section 34 of the Judicature Law to be assessed;
- (3) Costs.

SCHEDULE OF SPECIAL DAMAGES

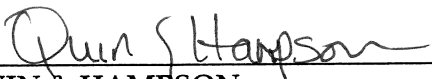
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|----|--|--------------|
| 1. | Medical and misc. consequential expenses | CI\$4,854.70 |
| 2. | Loss of Earnings | CI\$1,662.50 |
| 3. | Any further out of pocket expenses. | |

Medical expenses and special damages continue and the Plaintiff reserves the right to claim any other item of special damage that has or may have arisen as a result of the accident.

INDORSEMENT TO INSURER

The Defendant was insured by the Insurance Company of the West Indies (ICWI).

DATED this 9th day of June, 1999.



QUIN & HAMPSON
Attorneys-at-Law for the Plaintiff

THIS WRIT OF SUMMONS was issued by Quin & Hampson, Attorneys-at-Law for and on behalf of the Plaintiff herein, whose address for service is Harbour Centre, Third Floor, P.O. Box 1348, George Town, Grand Cayman, B.W.I.

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE

OF WRIT OF SUMMONS

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495, George Town, Grand Cayman

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by installments or otherwise.

See over for notes for guidance

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Writ of Summons*)".
4. Where the Defendant is a **FIRM** and an attorney is not instructed, the form must be completed by a **PARTNER** by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual **TRADING IN A NAME OTHER THAN HIS OWN**, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a **LIMITED COMPANY** the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his behalf.
7. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

BETWEEN: CLAUDIA SMITH Plaintiff

AND: ROBERT SEYMOUR Defendant

ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

IMPORTANT. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, **THIS FORM MAY HAVE TO BE RETURNED.**

Delay may result in judgment being entered against the Defendants whereby they may have to pay the costs of applying to set it aside.

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)

Yes No

3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (*tick box*).

Yes

Service of the Writ is acknowledged accordingly

(Signed)

[Attorney] for

[Defendant in person]

Address for service:

Please complete overleaf

Notes on address for service

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Messrs. Quin & Hampson
Attorneys-at-Law
Third Floor, Harbour Centre
P.O. Box 1348
George Town,
GRAND CAYMAN

Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.